

REMARKS

In an Office Action dated 6 June 06, the Examiner rejects claims 52, 55-56, 59-60, 63-64, and 67 (All pending claims). Applicants respectfully traverse the rejections. In light of the following arguments, Applicants respectfully request that the Examiner allow all pending claims and allow this application.

In the Office Action, the Examiner rejects claim 52 under 35 U.S.C. §103(a) as being unpatentable over “Requests for Comments 2131: Dynamic Host Configuration Protocol” (RFC) in view of U.S. Patent Number 5, 692, 197 issued to Narad et al. (Narad) in further view of U.S. Patent Number 4,775,996 issued to Emmerson et al. (Emmerson) in still further view of U.S. Patent Number 6,212,175 issued to Harsch (Harsch). In order to maintain a rejection the Examiner has the burden of providing evidence of prima facie obviousness. See MPEP §2143. See also *In Re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In order to prove prima facie obviousness, the Examiner must provide evidence in the prior art of a motivation to combine or modify a reference, a reasonable expectation of success, and a teaching of each and every claimed element. Id. The Examiner has failed to provide evidence of a teaching of each and every claimed element and has failed to provide a proper motivation to combine the references.

Amended Claim 52 recites “setting a re-transmit timer responsive to a determination of said mobile computer terminal being out of said transmission range; and re-transmitting said message responsive to an expiration of said re-transmit timer.” The Examiner admits in the Office Action that RFC, Narad, and Emmerson do not teach these limitations. The Examiner asserts that Harsch teaches these limitations. However, Harsch

does not teach the claimed limitation. Instead Harsch teaches a system in mobile communication may be programmed to wake up and send keepalive packets in order to maintain a network connection while the mobile device is in a sleep state. However, Harsch does not teach to detect when the device is out of range and resetting a timer when the device is out of range. Instead, Harsch teaches that when a mobile device goes out of range the mobile device no longer receives an acknowledgement message and the session may be ended by the server. See Col. 14, lines 43-46. Thus, the mobile device stops sending keepalive packets when out of range. See Col. 14, lines 46-47. Thus, none of the references teach detecting that a device is out of range, setting a re-transmitting timer and re-transmitting at the expiration of the re-set timer. Therefore, Applicants respectfully request that the rejection of claim 52 be removed and claim 52 be allowed.

Furthermore, the Examiner has not provided evidence of a motivation to combine the references. In making the proposed combination, the Examiner has relied on impermissible hindsight engineering. See In re McLaughlin, 443, F2d 1392,1395 (CCPA 1971). The prior art must be considered in its entirety including disclosures that teach away from the claims. Both Emmerson and Harsch teach away from the claimed inventions.

Applicant has read the entirety of Emmerson and has found no such teaching of a warning signal other than the brief mention in the prior art section of claim 1. In fact, Applicant finds that Emmerson teaches away from a warning signal in that Emmerson teaches using an incoming voice signal to train the user in the most effective stance to get the best infrared signal. See Col. 3, lines 26-39. Thus, none of the cited references teach these limitations nor does Emmerson teach the value of such a signal.

Furthermore, Harsch does not teach the setting of a re-transmit timer when a mobile device is out of range and re-transmitting at the expiration of the timer. Instead, Harsch teaches that when a mobile device is out of range it stops transmitting. See Col. 14, lines 46-48. For these reasons, the Examiner has not provided a proper motivation to combine the references. Therefore, Applicants respectfully request that the rejection of claim 52 be removed and claim 52 be allowed.

Claim 55 is dependent upon claim 52. Thus, claim 55 is allowable for at least the same reasons as amended claim 52. Therefore, Applicants respectfully request that claim 55 be allowed.

Claim 56 teaches an apparatus that performs the method of claim 52. Thus, claim 56 is allowable for at least the same reasons as claim 53. Therefore, Applicants respectfully request that the rejection of claim 58 be removed and claim 56 be allowed.

Claim 59 is dependent upon claim 56. Thus, claim 59 is allowable for at least the same reasons as amended claim 56. Therefore, Applicants respectfully request that claim 59 be allowed.

Claim 60 recites a system that performs the method of claim 52. Thus, claim 60 is allowable for at least the same reasons as claim 52. Therefore, Applicants respectfully request that the rejection of claim 64 be removed and claim 60 be allowed.

Claim 63 is dependent upon claim 60. Thus, claim 63 is allowable for at least the same reasons as claim 60. Therefore, Applicants respectfully request that claim 63 be allowed.

Claim 64 recites a method for operating a mobile device that includes the method of claim 52. Thus, claim 64 is allowable for at least the same reasons as claim 52. Therefore, Applicants respectfully request that the rejection of claim 66 be removed and claim 64 be allowed.

Claim 67 is dependent upon claim 64. Thus, claim 67 is allowable for at least the same reasons as claim 64. Therefore, Applicants respectfully request that claim 67 be allowed.

If the Examiner has a question about this response or the application in general, the Examiner is invited to telephone the Applicants at 775-586-9500.

Respectfully submitted,
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